

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JPMorgan Chase Bank, N.A., :
 :
 Plaintiff, :
 :
 v. : Case No. 2:06-cv-0095
 :
 Neovi, Inc., a/k/a Neovi : JUDGE GRAHAM
 Data Corporation, :
 :
 Defendant.

ORDER

On two separate occasions, the Court has awarded sanctions against defendant Neovi for disregarding its discovery obligations. The date for payment of those sanctions, totalling \$32,663.90, has passed. Plaintiff Chase has now moved the Court for further relief based on the nonpayment of the sanctions. In response, Neovi's counsel has requested an extension of time to state Neovi's position. The only reason given for that request is that Neovi has stopped communicating with its counsel. Neovi's counsel does not dispute that the money remains unpaid.

The fact that a party has chosen to cease communicating with its counsel is not ordinarily a reason to delay court proceedings. Here, the record reflects that two prior Court orders have gone unheeded. The failure to comply with a court order is usually the basis for a finding of contempt. The Court therefore directs the Clerk to set Chase's motion for a show cause hearing at the Court's earliest convenience. At the hearing, Neovi shall appear and show cause why it should not be held in contempt of Court for violating the Court's orders granting monetary sanctions and ordering that payment be made by a date certain. Its failure to appear may result in the

imposition of additional sanctions including an award of attorneys' fees to Chase in connection with the contempt proceedings, daily fines, civil incarceration of the noncompliant corporate officers, and a default judgment.

The Marshal is hereby directed to serve a copy of this order and the notice of the show cause hearing upon Neovi and to make a return of service not less than ten days before the hearing. Neovi's motion for an extension (#56) is denied.

Any party may, within ten (10) days after this Order is filed, file and serve on the opposing party a motion for reconsideration by a District Judge. 28 U.S.C. §636(b)(1)(A), Rule 72(a), Fed. R. Civ. P.; Eastern Division Order No. 91-3, pt. I., F., 5. The motion must specifically designate the order or part in question and the basis for any objection. Responses to objections are due ten days after objections are filed and replies by the objecting party are due seven days thereafter. The District Judge, upon consideration of the motion, shall set aside any part of this Order found to be clearly erroneous or contrary to law.

This order is in full force and effect, notwithstanding the filing of any objections, unless stayed by the Magistrate Judge or District Judge. S.D. Ohio L.R. 72.4.

/s/ Terence P. Kemp
United States Magistrate Judge